

REMARKS

Claims 1-41 remain pending in this application.

The Examiner rejected claims 1-7 and 37-41 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,958,027 (*Gulick*), in view of U.S. Patent No. 6,021,129 (*Martin*). Applicants respectfully traverse this rejection.

In the Final Office Action dated January 31, 2005, the Examiner stated that *Gulick* teaches a USB host monitoring a clock rate and adjusting the clock rate based upon the level of the buffer and cited column 7, line 35 and following lines. (See page 3 of the Final Office Action dated January 31, 2005). However, this disclosure does not make obvious the concept of automatically adjusting a data rate of a data packet by determining if there exists at least one data frame error. Simply monitoring a clock rate based upon the level of a buffer does not equate to automatically adjusting a data rate of a data packet based upon a data frame error. The Examiner does not provide sufficient arguments or evidence to support a contention to the contrary.

In the Final Office Action dated January 31, 2005, the Examiner also stated that *Martin* does not teach a frame tracking unit capable of automatically adjusting the data rate based upon a data frame error, as called for by claim 1 of the present invention. The Examiner, however, erroneously argued that *Gulick* and *Martin*, in combination, disclose the elements of claim 1 of the present invention. The Examiner stated that *Gulick* does not disclose automatically adjusting the clock rate of a transmission rate. Therefore, Applicants respectfully assert that since *Gulick* does not disclose adjusting a clock rate based upon a transmission rate, and *Martin* does not disclose frame tracking and adjusting a data rate based upon a data frame error, the combination

of **Gulick** and **Martin** could not possibly disclose or make obvious automatically adjusting the data rate based upon a data frame error, as called for by claim 1 of the present invention.

Claim 1 of the present invention calls for an adaptive frame tracking unit that is capable of automatically adjusting a data rate of a data packet by determining whether there exists at least one data frame error. As conceded by the Examiner, **Martin** clearly does not disclose automatically adjusting a data rate based upon a data frame error. In addition, **Gulick**, which the Examiner uses to make up for the deficit of **Martin**, also does not disclose adjusting a data rate based upon a data frame error. In fact, the only mention of error in **Gulick** relates to a statement in the Background Section that indicates that constant data rate through a pipe is provided and in the case of delivery failure due to error, there is no attempt to retry to deliver the data in relation to a universal serial bus. See column 2, lines 52-55. Nowhere does **Gulick** disclose adjusting a data rate based upon a data frame error. The mere disclosure in **Gulick** disclosing that a mechanism is provided to adjust the clock rate of a data producer to match the data clock rate of a USB host does not read upon elements of claims of the present invention. See column 7, lines 35-37. **Gulick** merely discloses that the clock rate of the data producer is adjusted and it is not practical to adjust the data base of a USB host. See column 7, lines 37-39. This disclosure does not make obvious automatically adjusting a data rate of a data packet based upon a data frame error.

Martin merely discloses modifying a scheduled time parameter associated with rescheduling of another cell from the same channel to compensate for transmission error. See column 14, lines 62-65. **Martin** clearly does not disclose adjusting of a data rate based upon a data frame error. As conceded by the Examiner in the Final Office Action dated January 31,

2005, *Martin* merely discloses a rate control module that may modify the rate of cell transmission, based upon a transmission rate associated with a particular group of ATM cells, or modify the rate to compensate for delays incurred during previous transmissions. *See*, col. 8, lines 25-38. *Martin* merely modifies the rate to compensate for delays that occurred in a previous transmission. *Id.* The Examiner erroneously equates this disclosure to automatically adjusting a data rate by determining whether a data frame error exists. *Martin* simply does not check for a data frame error, and neither does *Gulick*. The mere disclosure of the transmission manager 152 in *Martin*, in cooperation with the controller 40 to schedule and control the rate of transmission of signals received from a universal serial bus, simply does not anticipate or make obvious the adjusting of the data rate based upon determining whether a data frame error exists and then correcting the data frame error, as called for by claim 1 of the present invention.

The Examiner cited various passages of *Martin* that indicate that the transmission link 18 in *Martin* formats information to facilitate transmission of a universal serial bus (USB) and data blocks comprising a plurality of ATM cells payloads in determining appropriate virtual channels to facilitate their transmission. The Examiner asserted that this disclosure equates to the adaptive frame tracking called for by claim 1 of the present invention. However, Applicants respectfully assert that *Martin* simply does not disclose frame tracking, much less the adaptive frame tracking. The ATM payloads and the data blocks comprising the ATM cell payloads is received by determining appropriate virtual channel to facilitate their transmission. In other words, virtual channels are selected to receive data. This does not make obvious or anticipate the adaptive foreign tracking called for by claim 1 of the present invention. Various elements of claim 1 of the present invention are not disclosed, taught or suggested by *Martin*, *Gulick* or their

combination contrary to Examiner's contentions in the Final Office Action dated January 31, 2005. Therefore, claim 1 is allowable for at least these reasons.

The Examiner erroneously uses improper hindsight reasoning to pick-and-choose various portions of *Martin* and *Gulick* in an attempt to make obvious all of the elements of claim 1. For example, the Examiner concedes that *Martin* does not teach adaptive frame tracking and automatically adjusting a data rate based upon a frame error. The Examiner also concedes that *Gulick* does not specifically disclose teaching automatically adjusting the clock rate based upon a transmission rate. The Examiner then refers back to *Martin* to cite a controller that provides functionality to modify the transmission rate based upon a transmission delay of a previous transmission. However, even with the pick-and-choose approach utilized by the Examiner, the element of adaptive or frame tracking for automatically adjusting a data rate based upon a frame error, as called for by claim 1 of the present invention. Therefore, the back and forth references between various portions of *Martin* and *Gulick* still do not make obvious the automatic adjustment of data rate based upon a data frame error. Therefore, claim 1 is allowable or at least these reasons.

Additionally, the Examiner's combining of the various pieces of *Martin* and *Gulick* is based upon improper hindsight reasoning. Simply because *Gulick* discloses a universal serial bus and an isochronous bus monitoring the data level of a buffer within the USB host does not, in combination with *Martin*, disclose, teach, or make obvious all of the elements of claim 1 of the present invention. Therefore, those skilled in the art would not combine *Gulick* and *Martin* to make obvious all of the elements of claim 1 of the present invention.

As indicated by the Examiner in the Final Office Action dated January 31, 2005, it is clear that neither *Gulick*, nor *Martin*, by themselves could possibly disclose, suggest, or make obvious, all of the elements of claim 1 of the present invention. The Examiner uses *Martin* to disclose the element of the automatic adjusting of a data rate based upon the adjustment of the transmission rate. However, other elements of claims of the present invention, such as a frame tracking unit capable of automatically adjusting a data rate based upon a data frame error, are not taught, disclosed, or made obvious, by *Martin*.

Furthermore, Applicants respectfully assert that *Martin* does not teach frame tracking, much less adaptive frame tracking, which is called for by claim 1 of the present invention. *Martin* merely mentions the term "frame" in the context of avoiding losing accuracy due to large frame rates of a USB communication. However, *Martin* does not disclose an adaptive frame tracking as called for by claim 1 of the present invention. Additionally, even if *Gulick* and *Martin* were to be combined, all of the elements of claim 1 would not be taught, disclosed, suggested, or made obvious. The combination of *Gulick* and *Martin* does not provide for the adaptive frame tracking called for by the claims of the present invention. Claims 37 and 41 (both as amended) respectively comprise method steps and apparatus elements that call for adjusting a data rate based upon a data frame error are allowable for at least the reasons cited above. Therefore, *Gulick*, *Martin*, or their combination do not anticipate or make obvious all of the elements of independent claims 1, 37, and 41 of the present invention.

Independent claims 1, 37 and 41, are allowable for at least the reasons cited above. Additionally, dependent claims 2-7 and 38-40, which depend from independent claims 1 and 37 are also allowable for at least the reasons cited above.

Reconsideration of the present application is respectfully requested.

In light of the arguments presented above, Applicants respectfully assert that claims 1-41 are allowable. In light of the arguments presented above, a Notice of Allowance is respectfully solicited.

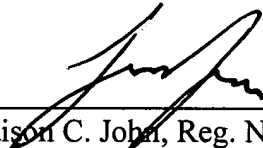
If for any reason the Examiner finds the application other than in condition for allowance, **the Examiner is requested to call the undersigned attorney** at the Houston, Texas telephone number (713) 934-4069 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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IN THE DRAWINGS

The previous objections to the Drawings have been withdrawn by the Examiner.

Therefore, the Drawings are considered accepted as filed.